

AMENDING THE PUBLIC HEALTH SERVICE ACT TO AUTHORIZE ASSISTANCE TO STATES AND POLITICAL SUBDIVISIONS IN THE DEVELOPMENT AND MAINTENANCE OF LOCAL PUBLIC HEALTH UNITS

FEBRUARY 15 (legislative day, JANUARY 29), 1951.—Ordered to be printed

Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 445]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 445) to amend the Public Health Service Act to authorize assistance to States and political subdivisions in the development and maintenance of local public health units, and for other purposes, having considered the same, report favorably thereon, with an amendment, and recommend that the bill, as amended, do pass. The bill is the same as the bill which passed the Senate in the Eighty-first Congress after extensive hearings.

The committee amendment is as follows:

Strike out in section 4 (g), the date 1950 wherever it appears, and substitute the date 1951.

THE NEED FOR DEVELOPMENT OF LOCAL PUBLIC HEALTH UNITS AND PURPOSE OF THE BILL

It is the consensus of the committee that the development of local public health units in areas without them, as well as in areas having units which do not now meet approved minimum standards, is a fundamental necessity to the maintenance and improvement of the Nation's health. The expansion of local health units is imperative if the Nation is to realize more fully the benefits of the preventive approach to health, through emphasis on those programs aimed at prevention and reduction of the incidence of disease and handicapping conditions.

The defense effort in which we are currently engaged has intensified this need. This is reflected in the recommendation made by

the National Securities Resources Board that the local health officer be made director of civil defense health services and that he "be appointed immediately to supervise the program from the start and to give leadership to the various interested organizations whose efforts, if made independently, easily might be wasted." This is important, not only in target areas, but throughout the Nation since any community may be called upon to receive a large influx of refugees or wounded.

Moreover, the defense effort requires a huge supply of highly productive manpower. To provide this manpower, we must maintain the health of the able-bodied.

Public health services promote productive manpower. They lessen the risk of epidemics—a risk which otherwise grows as travel increases and living and working conditions become more crowded. They provide basic health protection for all age groups. They see that sanitary conditions are maintained and lessen the danger of outbreaks of food poisoning. They furnish health education, showing people how to keep themselves healthy and stimulating them to seek early treatment when they become ill. They provide birth certificates—increasingly required for defense jobs—as well as other vital statistics. They maintain laboratories which are constantly on the alert to detect the presence of communicable and filth-borne diseases.

Your committee emphasizes, however, as we point out subsequently in this report, that it is not in any sense intended that a general system of Government or public medical care be fostered or evolved through the development of local public health units. Medical, dental, and nursing care are excluded except in the diagnosis or prevention of disease or the control of communicable diseases.

Should we move into an active war situation, the basic health department services would be even more essential than they are in peacetime. Methods of attack, such as biological, chemical, or atomic warfare, may be directed against the civilian population and the health defense against them is primarily an expansion of the protective measures employed against peacetime health hazards. Whether a disease epidemic is created by man or nature, the methods used to combat it are essentially the same—prompt detection of the disease agent (the job of public health epidemiologists and public health laboratories), and mass immunizations. Whether food, water, or air is contaminated accidentally or deliberately, the same safeguards must be used—round-the-clock surveillance of water supplies and sewerage and sanitation services, laboratory testing of sample specimens.

The National Security Resources Board specifically recommends that the local health officer be made director of civil defense health services and that he "be appointed immediately to supervise the program from the start and to give leadership to the various interested organizations whose efforts, if made independently, easily might be wasted." This is important, not only in target areas, but throughout the Nation since any community may be called upon to receive a large influx of refugees or wounded.

A Nation-wide network of strong local health departments is a sound peacetime investment; in wartime, it is imperative, for only on this basic community structure can defense health services be provided rapidly, economically, and efficiently to all the people, wherever they may live.

The bill recommended by the committee to accomplish the expansion of local units is the result of extensive discussion and most careful deliberation. Because extensive hearings were held during the past Congress, your committee did not feel it necessary or useful to hold hearings again, since the result would undoubtedly be a mere repetition of the evidence previously presented.

Essentially the bill recommended by the committee does not create a new program. Instead it would merely implement principles underlying the development of public health services which are now provided in the Public Health Service Act. The bill heads up the problem of extending local public health units and places greater emphasis upon such extension than exists under present provisions of law.

Need for extension of local public health units

There are currently some 1,336 counties having approximately 40,000,000 people who are without full-time local health service. When the minimum staffing standards of the American Public Health Association are applied to the 1,734 counties that have full-time local health service, it is found that as of June 30, 1949, only 769 counties meet the minimum standards as to number of public health physicians; 148 counties had enough public health nurses, and 956 counties had sufficient sanitation personnel. It is therefore apparent that a large percentage of the full-time local health organizations now operating require expansion in staff and activities to assure meeting even minimum standards of operation. Yet these standards of the American Public Health Association call only for 1 public health physician per 50,000 population, 1 public health nurse per 5,000 population, 1 sanitarian per 25,000 population, and 1 clerical employee per 15,000 population.

The need for Federal grants-in-aid for the extension and improvement of local health units was brought out by virtually all witnesses who testified before the committee in 1949. Expert witnesses at that time testified that basic public health services should be made available to all the population and that in their opinion specific grants-in-aid for this purpose would constitute the most important single piece of health legislation that Congress could undertake at this time. Witnesses appearing in support of the measure included the National Advisory Committee on Local Health Units (representing 52 organizations), the National Congress of Parents and Teachers (representing a membership of approximately 6,000,000), the Association of State and Territorial Health Officers, the American Hospital Association, the National Tuberculosis Association, the National Foundation for Infantile Paralysis, the National Society for the Prevention of Blindness, the American Social Hygiene Association, the National Health Council, and the American Public Health Association. The attention of the committee was also invited to 24 resolutions supporting the promotion of local health units as passed by such organizations as American Farm Bureau Federation, General Federation of Women's Clubs, American Heart Association, the General Assembly of the State of Georgia, the Young Men's Christian Association International Council, and the National Grange.

Purpose and principles of the bill

The primary objective of the bill recommended by the committee is to assist States and their local subdivisions in the establishment and

maintenance of full-time local health units equipped and staffed to provide basic public health services. The bill would authorize Federal aid in helping to establish such units where they do not exist and in strengthening the personnel and services of existing units in order to enable them to increase the quantity and raise the quality of the public health services they now render to the people within their jurisdictions. Such Federal aid would be provided through the device of variable grants to States on the basis of relative financial need.

The bill is based on the principle that the States shall develop their own comprehensive plans for establishing adequately staffed and equipped local public health units for the provision of public health services. Such units must be developed so as to assure coverage under the program in all areas of the State at the earliest practicable date.

Dr. Vlado A. Getting, commissioner of public health of the Commonwealth of Massachusetts, when testifying in 1949 for the Association of State and Territorial Health Officers, stated that local health units are responsible for providing or seeking the adequate provision of the following basic public health services for the citizens they serve:

1. Vital statistics: People need and can obtain copies or certified copies of birth and death certificates which are frequently necessary for entrance to school, for obtaining work, for entering the Armed Forces, or for collecting insurance, for settling estates, etc.

2. The control and prevention of the communicable diseases including the acute communicable diseases, the venereal diseases, tuberculosis, malaria, hookworm, etc., and protection against those diseases for which protective measures have been found effective.

3. Environmental sanitation: The people have a right to expect an adequate, safe, potable water supply, an adequate, clean, safely pasteurized milk supply, the supervision of foods and food handling, including instruction in personal hygiene and the hygiene of food handling, a safe method of excreta disposal, the health aspects of housing, the control and supervision of swimming pools and bathing areas, insect and rodent control, proper sanitation of schools, a program of accident prevention, and a cooperative effort with industry to assure the health protection of workers.

4. Laboratory services providing aids to the diagnosis of disease and the examination of water, milk, and other foods.

5. The protection of maternal and child health should be provided through the prenatal, parturient, and postnatal periods and the infant, preschool, and school age. Adequate hospital, medical, and nursing services should be locally available and, if not available, they should be actively sought by the local health unit.

6. Control and prevention of chronic diseases: The development of educational and diagnostic programs for the prevention, arrest, amelioration and cure of chronic diseases and their complications.

7. Health education: The people have the right to expect their health department to be a source of authentic information on generally accepted procedures for health protection and the maintenance of optimal health.

The effectiveness of Federal grants now provided for a number of specialized public health programs in the fields of cancer control, mental health, venereal disease and tuberculosis control, maternal and child health, and the care of crippled children is to an appreciable degree dependent upon the distribution and effectiveness of basic local public health services. An illustration of this was pointedly brought out in testimony before the committee by Dr. James E. Perkins, managing director of the National Tuberculosis Association, when he said:

The National Tuberculosis Association has long held the opinion that effective tuberculosis control can be achieved only if there are adequately staffed and adequately financed full-time local health services. We know enough about

tuberculosis today to rid our Nation of this disease if there were local health officers and public nurses in the field to follow up each case and assure treatment. The chief function of our association is educational. But education falls down if there are no X-ray machines and other facilities, if there are not enough people in the local health agencies to actually do the work.

A central concept of the bill is that the funds made available for local health services shall be used for the development of certain common essential public health services and that the local health organization would serve as a framework into which would be fitted the several specialized public health programs for which Congress has given special support.

It is not in any sense intended, and this bill does not provide, that a general system of Government or public medical care be fostered or evolved through the development of local public health units. In recommending this bill, the committee expresses unanimously its opinion as to the desirability and necessity of extending to all areas of the Nation those fundamental public health services which are essential to the prevention and reduction of the incidence of disease and handicapping conditions. In order that Federal assistance for local health units will serve the basic purpose of the bill to assure essential public health services in all areas of the Nation, the types of services which may be deemed "public health services" with respect to the operation of local public health units are specifically enumerated. Medical, dental, and nursing care are excluded except in the diagnosis or prevention of disease or the control of communicable disease. It is understood, as represented to the committee by the Public Health Service, that members of the full-time basic staff of local units, such as the public health nurse, may often be utilized in the course of their regular duties, in rendering incidental services in connection with the categorical programs and that these may include some medical or nursing care.

The relation of this bill to the Public Health Service Act is as follows:

The existing act, in addition to providing for three categorical programs of grants to States in the field of tuberculosis, venereal disease, and heart disease now provides also for grants to assist the States and their local subdivisions in establishing and maintaining public health services of a general nature. No differentiation is made for this purpose, however, between services which are performed by the States and those performed by the local subdivisions. The present bill would lift the provision for grants for general public health services out of section 314 of the Public Health Service Act and place it in a new section 315. At the same time it would require State plans for such services to set forth two distinct programs, one for the services to be performed by the States and one for the services to be performed by local public health units in local areas.

The purpose of this is to bring these two programs together in one coordinated plan and to assure that adequately staffed and equipped local public health units will be established on a progressive basis so that all areas of the State will be covered by such units at the earliest practicable date.

Except for the required categorization for the local public health units, the provisions for the State plan as it relates to State activities are largely the same as under the present pattern of section 314 of the Public Health Service Act. From the appropriations made for this

purpose allotments would be made to the States on the basis of the same factors as under the present section 314, namely, population, "financial need" (in terms of "average per capita income"), and the extent of special health problems. The extent of required "matching" by State funds would be fixed by regulation, as under the present section 314. The cost to the State of administering the total plan would be a part of the expenditures to be financed under this pattern.

A specific formula is provided for assisting the activities of local public health units under the plan. Each State would be entitled to receive for carrying out the program for such local units an amount bearing the same ratio to one-third of the total expenditures for such purpose under the State plan as the average per capita income of the continental United States bears to the average per capita income of the State. The State plan must provide for the allocation of all funds received for this purpose to participating local units under an equitable system of distribution. The Federal payments may not, however, in any case exceed more than two-thirds of the total expenditures under the plan for such purpose, or more than \$1.50 multiplied by the population of each of the local units participating in the State plan.

The committee is aware that the provisions of this bill have the effect of adding an additional category to the existing grant-in-aid structure in the public health field, and the committee is not unsympathetic to proposals for simplification of the present over-all grant structure. However, it is the consensus of the committee that enactment of this bill would result in little, if any, difficulty administratively and that it would not intensify accounting problems or lead to any substantial administrative expense attributable to the categorization of the local unit program. It is believed that the immediate need for extension of local health units transcends the general administrative problem involved in revision of the over-all grant structure and that the latter should not be taken up in the present measure.

SECTION-BY-SECTION ANALYSIS OF THE BILL

The major provisions of the bill take the form of amendments to the Public Health Service Act, thus making applicable the general provisions of the act, such as that providing for over-all supervision by the Federal Security Administrator and that containing general definitions.

Section 1: Provides that the act may be cited as the "Local Public Health Units Act of 1951."

Section 2: Contains a declaration of policy and an explanation of the purpose of the bill. It states that adequate protection of the Nation's health is essential to the welfare of our country and cannot be achieved unless public health services are available in every locality through adequately staffed and properly equipped local public health units. It is therefore declared to be the policy of the Congress and the purpose of the bill to assist the States, as provided in the bill, in developing and maintaining local public health units organized to provide full-time public health services in all areas of the Nation.

Section 3: Contains the major provisions of the bill. Subsection (a) of section 3 of the bill merely redesignates section 315 of the Public Health Service Act (relating to the issuance of health education and

information by the Surgeon General) as section 304 of the Public Health Service Act. Subsection (b) of section 3 of the bill amends the Public Health Service Act by adding at the end of part B of title III a section to constitute the new section 315.

Section 314 of the Public Health Service Act, in addition to providing for three categorical programs of grants to States in the fields of tuberculosis, venereal disease, and heart disease, now provides also (in sec. 314 (c)) for grants to assist the States and their local subdivisions in establishing and maintaining public health services of a general nature. No differentiation is made for this purpose between services which are performed by the States and those performed by the local subdivisions.

The bill reported by your committee would lift the provision for grants for general public health services out of section 314 of the Public Health Service Act and place it in a new section 315. At the same time it would require State plans for such services to set forth two distinct programs, one for the services to be performed by the States and one for the services to be performed by local public health units in local areas.

The purpose of these changes is to bring these two programs together in one coordinated plan and to assure that adequately staffed and equipped local public health units will be established on a progressive basis so that all areas of the State will be covered by such units at the earliest practicable date.

Subsection (a) of the new section 315 of the Public Health Service Act contains definitions of terms which are used in the section and which are not defined in the general definition section (sec. 2) of the Public Health Service Act.

Paragraph (1) of subsection (a) of the new section 315 defines a "local public health unit" as the governmental authority of a local area authorized to provide public health services therein or a combination of the governmental authorities of two or more contiguous local areas authorized to provide such services in the combined area. Also included is any unit of a State government specifically assigned responsibility to provide public health services in a local area; and the District of Columbia, which is defined as a State in section 2 of the Public Health Service Act, is also recognized as a local unit for the purposes of the definition of local public health unit.

Paragraph (2) of such subsection (a) defines the term "population." Under this definition the population of a State is to be determined according to latest estimates available from the Department of Commerce and the population of a local area is to be determined on the basis of the most recent decennial census figures, but with provision for adjustment of the local area figure in case the population of the State of which it is a part has changed since that census.

Paragraph (3) of such subsection (a) indicates the method of determining the average per capita income of the United States and the average per capita income of each State. These average-income figures, together with the population figures, are used under subsection (e) for determining the amount to which a State is entitled for State and local public health services under the new section.

Subsection (b) of the new section 315 authorizes the appropriation, beginning with the fiscal year ending June 30, 1952, of such sums as may be necessary for carrying out the two purposes of the new section,

viz, to enable the Surgeon General to assist the States in establishing and maintaining adequate State public health services and to assist the States and their subdivisions in establishing and maintaining adequately staffed and equipped local public health units for the provision of public health services. These appropriations are to be used for payments to States which have approved plans for carrying out the purposes of the section.

Subsection (c) of the new section 315 requires the Surgeon General, within 6 months after the enactment of the bill, to prescribe regulations on various aspects of the program relating to the local public health units:

1. The regulations must prescribe the minimum population to be served by each such unit. Variations for different types of areas are required; such units, however, may not exceed 1 for each 35,000 of population in any State except in States having less than 12 persons per square mile in which case they may not exceed 1 for each 20,000 of population. The regulations are to prescribe also the minimum number, and the types, of full-time personnel which local public health units in various types of areas must employ in order for such units to be eligible for Federal assistance in the provision of public health services. The regulations are also to prescribe the conditions under which compliance with such requirements may be postponed, and the extent to which postponement is permissible.

2. The regulations must prescribe general methods of administration necessary to assure the efficient and economical provision of health services. The regulations may also prescribe conditions under which and the extent to which compliance with such methods may be postponed.

3. The regulations are also to prescribe the types of services which shall be considered "public health services" for which funds may be expended under State plans. These may include the diagnosis and prevention of disease, the control of communicable disease, health education, demonstrations, sanitation, vital statistics, the training of personnel for State and local health work, and other aspects of preventive medicine. They may not include medical, dental, or nursing care except in the diagnosis or prevention of disease or the control of communicable disease, or the promotion, establishment, or maintenance of industrial accident prevention programs.

Under the definition in the bill, medical, dental, and nursing care would be excluded from public health services, except in the diagnosis or prevention of disease or the control of communicable disease. It is appreciated, of course, that members of the full-time basic staff of local units, such as the public health nurse, may often be utilized in the course of their regular duties, in rendering incidental services in connection with the categorical programs and that these may include some medical or nursing care.

In defining "public health services" with respect to local public health units your committee did not intend that the full-time personnel and facilities of local health units required for such services may not incidentally, and without the necessity for a separate allocation of costs, be utilized in the rendition of services for which Federal assistance is available under other provisions of law. Provision for handling the allocation of costs between the general activities author-

ized by section 315 and the categorical programs authorized elsewhere is made in paragraph (4) of subsection (e) of the new section 315.

Subsection (d) of the new section 315 of the Public Health Service Act sets forth in eight subparagraphs the provisions with which a State plan must comply in order to be approved for the purpose of obtaining Federal grants under the section.

Paragraph (1) requires the State plan to set forth a program for establishing and maintaining adequate State public health services, including programs in mental health.

Paragraph (2) requires that the plan set forth a program for establishing and maintaining adequately staffed and equipped local public health units for the provision of public health services. It is made clear that this program may include health services other than those defined as "public health services" in subsection (c) so long as the expense of such services is not included as an expenditure for the purpose of calculating the amount of the Federal payments under subsection (e).

Paragraph (3) of such subsection (d) requires the State plan to provide for the extension of the program relating to local public health units so as to assure coverage of all areas in the State at the earliest practicable date.

Paragraph (4) of such subsection (d) requires the plan to show that the participating State and local units have adequate authority to carry out its provisions with relation to local public health units in conformity with the requirements of the new section.

Paragraph (5) of such subsection (d) requires the plan to provide that any local public health unit providing public health services under the plan have sufficient financial resources to assure efficient and economical administration of such services.

Paragraph (6) of the subsection requires the plan to provide for the allocation of funds received for the program relating to local public health units to the units which participate in the plan, in accordance with methods assuring equitable distribution among the units and effective use of the funds in the extension and expansion of public health services. The plan must provide that all such funds paid to the State must be used by local public health units solely for providing such services.

Paragraph (7) of the subsection, which is applicable to the programs for State as well as for local services, requires the plan to provide methods of administration necessary to assure the efficient and economical provision of services under the plan. It includes methods for the administration of personnel standards on a merit basis with the prohibition, customary in grant programs, of the exercise of any Federal authority with respect to any individual employed in accordance with such methods.

Paragraph (8) of the subsection requires the plan to provide that the State health authority will submit necessary reports and information and give the Surgeon General access to the records on which the information is based.

The Surgeon General would be required to approve any State plan which complies with the foregoing requirements and with regulations prescribed under subsection (c) of the new section 315.

Subsection (e) of the new section 315 of the Public Health Service Act provides the method for determining the payments to which each State with an approved plan will be entitled.

Paragraph (1) of such subsection relates to the payments for carrying out the program for State public health services. The appropriations for this purpose are to be allotted from time to time among the several States (and may be reallocated within the same fiscal year if unused) on the basis of factors which are comparable to those now provided in subsection (d) of section 314 of the Public Health Service Act. Amounts to be paid to each State from its allotment would be paid on the condition that the State will expend for carrying out the State program under the plan an amount determined in accordance with regulations. This provision also is comparable to that currently provided in section 314 (subsec. (h)).

Paragraph (2) of the new section 315 (e) provides a formula for determining the Federal share of the total cost of carrying out the program for local public health units under the State plan. For each fiscal year each State would be entitled to a percentage (not in excess of 66% percent) of the total expenditures under the approved plan by all of its participating local public health units. The amount of this Federal payment would be determined by dividing the per capita income of the continental United States by the per capita income of the State and multiplying one-third of the total expenditures for local public health units under the plan by the resulting figure. In no case, however, would there be counted as an expenditure under the State plan any amount in excess of \$1.50 expended by any of the local units participating in the State plan multiplied by the population of the area served by such unit. A higher figure than \$1.50, however, could be used if it should be so specified in the appropriation. It is also provided that if at the beginning of a fiscal year the appropriation for this purpose is less than the Federal proportion of the total estimated expenditures for such purpose under approved State plans for such year the amount to which each State is entitled shall be reduced proportionately.

Paragraph (3) is a safeguarding provision to assure that no funds from Federal sources other than those paid to the State pursuant to the new section 315 may be counted as a part of the expenditures under the plan, and that no expenditures made by the State or by local public health units which have been reported as expenditures for the purpose of any other program aided by Federal grants shall be so counted.

Paragraph (4) was not in the bill as introduced. It would authorize the Surgeon General by regulation to prescribe the extent to which the cost of services, facilities, and equipment which are utilized by a State or its local units in carrying out the State plan under section 315 and which are also used in carrying out other programs assisted by Federal grants may be treated as expenditures under this section. Such regulations may provide that if the major utilization of such services, facilities, and supplies is in carrying out a State plan approved under this section or is so divided among other plans as to make an apportionment thereof impracticable, the entire cost thereof shall be deemed to constitute an expenditure for the purpose of this subsection.

This provision is desirable in order better to assure that the purposes of the bill will be carried out. The purpose of this bill to assure a sound basic structure for the operation of local public health units

would be seriously impaired if a detailed breakdown of time and functions of State and local personnel had to be maintained for the purpose of allocating as among several Federal programs the cost of what in the local area is a normal incident of a unified operation.

Subsection (f) of the new section 315 sets forth the method of certifying to the Secretary of the Treasury the amounts to be paid to each State based upon estimates for the period for which the payment is to be made. The methods prescribed are substantially the same as those now applicable to the existing grant-in-aid programs under section 314 of the Public Health Service Act.

Subsection (g) of the new section 315 provides for the withholding of payments under the section when, after notice and opportunity for a hearing, the Surgeon General finds either that the State plan has been so changed that it no longer conforms to the requirements of subsection (d), or that in the administration of the plan there has been a substantial failure to comply with provisions required by subsection (d) to be included in the plan, or that the State plan has ceased to comply with regulations under the section. It is provided, however, that no changes may be required in any State plan within 2 years after initial approval thereof or after any change required by reason of changes in the regulations.

If any State is dissatisfied with the Surgeon General's action under the above withholding provision, it may, under subsection (h) of the new section 315 of the Public Health Service Act, appeal to the United States Court of Appeals, which would have jurisdiction to affirm his action or set it aside, in whole or in part. The hearing in court would be upon the record made before the Surgeon General. The findings of fact by the Surgeon General, unless substantially contrary to the weight of the evidence, are made conclusive upon the court. The court could, however, for good cause remand the case to the Surgeon General for further evidence and any new findings and any modification of his prior action would have the same effect in court as the original findings and decision. The court's decision would be subject to review by the United States Supreme Court. This subsection is the same as the judicial review provision now contained in title VI of the Public Health Service Act (Hospital Survey and Construction Act).

Section 4 amends the provisions of section 314 of the Public Health Service Act which is the general section of that act relating to grants and services to States.

Subsection (a) of section 4 revises subsection (c) of section 314 of the Public Health Service Act to eliminate the authorization for grants to States, which are now to be provided for under the new section 315, and to authorize appropriations for such sums as are necessary to enable the Surgeon General to provide demonstrations and to train personnel for State and local health work and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist the States and their local subdivisions in carrying out the purposes of section 315.

Subsections (b), (c), and (d) of section 4 of the bill are technical amendments necessitated by the revision of subsection (c) of section 314 of the act.

Subsection (f) of section 4 of the bill amends subsection (j) of section 314 of the Public Health Service Act so as to make it applicable

to regulations prescribed under the new section 315 in the same fashion as it is now applicable to regulations under section 314. Subsection (j), as amended by the bill, provides that all regulations and amendments thereto relating to grants to States under either section 314 or 315 are to be made after consultation with, and insofar as practicable after obtaining the agreement of, the State health authorities, including in the case of regulations affecting work in the field of mental health the State mental health authorities. Furthermore, except in case of emergency, such regulations may be issued only after 30 days' notice to, and presentation to the annual conference of, the State authorities.

Subsection (g) of section 4 of the bill, as amended by the committee, is a transition provision. It provides that the amendments to section 314 of the Public Health Service Act shall take effect July 1, 1951. It also provides that the balance of any grants made prior to that date to any State for carrying out the purposes of subsection (c) of section 314 and remaining unexpended on that date shall remain available for expenditure for State public health services under a plan approved under the new section 315. The amount of such balance, however, is to be deducted from payments to which the State would otherwise be entitled under the new section.

CHANGES IN EXISTING LAW

For the information of those interested in determining the changes which S. 445 would make in the Public Health Service Act, existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman:

PUBLIC HEALTH SERVICE ACT, AS AMENDED

TITLE I—SHORT TITLE AND DEFINITIONS

SHORT TITLE

SEC. 1. Titles I to VI, inclusive, of this Act may be cited as the "Public Health Service Act".

DEFINITIONS

SEC. 2. When used in this Act—

- (a) The term "Service" means the Public Health Service;
- (b) The term "Surgeon General" means the Surgeon General of the Public Health Service;
- (c) The term "Administrator" means the Federal Security Administrator;
- (d) The term "regulations", except when otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Administrator;
- (e) The term "executive department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;
- (f) The term "State" means a State or the District of Columbia, Hawaii, Alaska, Puerto Rico, or the Virgin Islands, except that as used in section 361 (d) such term means a State, the District of Columbia, or Alaska;
- (g) The term "possession" includes, among other possessions, Puerto Rico and the Virgin Islands;
- (h) The term "seamen" includes any person employed on board in the care, preservation, or navigation of any vessel, or in the service, on board, of those engaged in such care, preservation, or navigation;
- (i) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, exclusive of aircraft and amphibious contrivances;

(j) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts and preparations; opiates (as defined in section 3228 (f) of the Internal Revenue Code);

(k) The term "addict" means any person who habitually uses any habit-forming drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;

(l) The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;

(m) The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n) The term "heart diseases" means diseases of the heart and circulation; and

(o) The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth.

TITLE II—ADMINISTRATION

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TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATIONS

IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council, and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project;

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment; and

(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory

Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

NARCOTICS

Sec. 302. (a) In carrying out the purposes of section 301 with respect to narcotics, the studies and investigations shall include the use and misuse of narcotic drugs, the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of crude opium, coca leaves, or other narcotic drugs, together with such reserves thereof, as are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the 1st day of September each year to the Secretary of the Treasury, to be used at his discretion in determining the amounts of crude opium and coca leaves to be imported under the Narcotic Drugs Import and Export Act, as amended.

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts.

MENTAL HEALTH

Sec. 303. In carrying out the purposes of section 301 with respect to mental health, the Surgeon General is authorized—

(a) For purposes of study, to admit and treat at the National Institute of Mental Health, voluntary patients, whether or not otherwise eligible for such treatment by the Service, and patients of St. Elizabeths Hospital transferred from the hospital pursuant to arrangements made between the Surgeon General and the Superintendent of the hospital with the approval of the Administrator: *Provided*, That consent of a legal guardian shall be obtained before the transfer of any patient from St. Elizabeths Hospital for such treatment.

(b) (1) To Provide training and instruction, in matters relating to psychiatric disorders, to persons found by him to have proper qualifications, and to fix and pay to any of such persons as he may designate a per diem allowance during such training and instruction of not to exceed \$10, the number of such persons receiving such training and instruction to be fixed by the National Advisory Mental Health Council; and (2) to provide such training and instruction, and demonstrations, through grants, upon recommendation of the National Advisory Mental Health Council, to public and other nonprofit institutions, but only to the extent necessary for the purposes of such training and instruction.

HEALTH EDUCATION AND INFORMATION

Sec. [315] 304. From time to time the Surgeon General shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions engaged in work related to the functions of the Service.

PART B—FEDERAL-STATE COOPERATION

IN GENERAL

Sec. 311. The Surgeon General is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this Act which such authorities may be able and willing to provide. The Surgeon General shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 314, and shall advise the several States on matters relating to the preservation and improvement of the public health.

HEALTH CONFERENCES

SEC. 312. A conference of the health authorities of the several States shall be called annually by the Surgeon General. Whenever in his opinion the interests of the public health would be promoted by a conference, the Surgeon General may invite as many of such health authorities to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Surgeon General to call a conference of all State and Territorial health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend.

COLLECTION OF VITAL STATISTICS

SEC. 313. To secure uniformity in the registration of mortality, morbidity, and vital statistics the Surgeon General shall prepare and distribute suitable and necessary forms for the collection and compilation of such statistics which shall be published as a part of the health reports published by the Surgeon General.

GRANTS AND SERVICES TO STATES

SEC. 314. (a) To enable the Surgeon General to carry out the purposes of section 301 with respect to developing more effective measures for the prevention, treatment, and control of venereal diseases, and to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate measures for the prevention, treatment, and control of such diseases, including the training of personnel for State and local health work, and to enable him to prevent and control the spread of the venereal diseases in interstate traffic, and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist in carrying out the purposes of this section with respect to the venereal diseases, and to administer this section with respect to such diseases, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subsection.

(b) To enable the Surgeon General to carry out the purposes of section 301 with respect to developing more effective measures for the prevention, treatment, and control of tuberculosis, and to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate measures for the prevention, treatment, and control of such disease, including the provision of appropriate facilities for care and treatment and including the training of personnel for State and local health work, and to enable him to prevent and control the spread of tuberculosis in interstate traffic, and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist in carrying out the purposes of this section with respect to tuberculosis, and to administer this section with respect to such disease, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1945, the sum of \$10,000,000, and for each fiscal year thereafter a sum sufficient to carry out the purposes of this subsection.

[(c) To enable the Surgeon General to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public health services, including grants for demonstrations and for training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year a sum not to exceed \$30,000,000. Of the sum appropriated for each fiscal year pursuant to this subsection there shall be available an amount, not to exceed \$3,000,000, to enable the Surgeon General to provide demonstrations and to train personnel for State and local health work and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist States in carrying out the purposes of this subsection.]

(c) *There is hereby authorized to be appropriated such sums as are necessary to enable the Surgeon General to provide demonstrations and to train personnel for State and local health work and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist the States and their local subdivisions in carrying out the purposes of section 315.*

(d) For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under subsection [(a), the total sum from] (a) and the appropriation under subsection (b), [and, within the limits specified in subsection (c), the total sum from the appropriation under that subsection] which shall be available for allotment among the several States. He shall, in accordance with regulations, from time to time make allotments from such sums to the several States on the basis of (1) the population, (2) the extent of the venereal-disease problem, the extent of the tuberculosis problem, and the extent of the mental health problem and other special health problems, respectively, and (3) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof.

(e) To enable the Surgeon General to carry out the purposes of part B of title IV and to assist, through grants, States, counties, health districts, and other political subdivisions of the State, and public and nonprofit agencies, institutions, and other organizations, in establishing and maintaining organized community programs of heart disease control, including grants for demonstrations and the training of personnel, there is hereby authorized to be appropriated for each fiscal year such sums as may be necessary for such purposes. For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under this subsection which shall be available for allotment among the several States, and shall, in accordance with regulations, from time to time make allotments from such sum to the several States on the basis of (1) the population and (2) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof.

(f) The Surgeon General, with approval of the Administrator, shall from time to time determine the amounts to be paid to each State from the allotments to such State, and shall certify to the Secretary of the Treasury, the amounts so determined, reduced or increased, as the case may be, by the amounts by which he finds that estimates of required expenditures with respect to any prior period were greater or less than the actual expenditures for such period: *Provided*, That in the case of amounts to be paid from allotments to any State under subsection (e), the Surgeon General may determine and certify to the Secretary of the Treasury amounts to be paid to a county, health district, other political subdivision of the State or to any public or nonprofit agency, institution, or other organization in the State, if he finds that payment to such subdivision or other organization has been recommended by the State health authority of the State, and (1) that the State health authority has not, prior to August 1 of the fiscal year for which the allotment is made, presented and had approved a plan in accordance with subsection (g), or (2) that the State health authority is not authorized by law to make payments to such other organization. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

(g) The moneys so paid to any State, or to any political subdivision or other organization, shall be expended solely in carrying out the purposes specified in subsection (a), or subsection (b), [or subsection (c),] or subsection (e), as the case may be, and in accordance with plans, approved by the Surgeon General, which have been presented by the health authority of such State, or, under the circumstances specified in subsection (f) (1), by the political subdivision, or the agency, institution, or other organization to whom the payment is made[, and, to the extent that any such plan contains provisions relating to mental health, by the mental health authority of such State].

(h) Money so paid from allotments under subsections (a), (b), [(c),] and (e), shall be paid upon the condition that there shall be spent in such State for the same general purpose from funds of such State and its political subdivisions (or in the case of payments to a political subdivision or to an agency, institution, or other organization under circumstances specified in subsection (f) (1), from funds of such political subdivision or organization), an amount determined in accordance with regulations.

(i) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority [or, where appropriate, the mental health authority] of the State (or, in the case of payments to any political subdivision or any agency, institution, or other organization under the circumstances specified in subsection (f) (1), such subdivision or organization) finds that, with respect to money paid to the State, subdivision, or organization out of appropriations under

subsection (a), or subsection (b), ~~for~~ subsection (c), ~~or~~ subsection (e), as the case may be, there is a failure to comply substantially with either—

- (1) the provisions of this section;
- (2) the plan submitted under subsection (g); or
- (3) the regulations;

the Surgeon General shall notify such State health authority ~~for~~ mental health authority], political subdivision, or organization that further payments will not be made to the State subdivision, or organization from appropriations under such subsection (or in his discretion that further payments will not be made to the State, subdivision, or organization from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Surgeon General shall make no further certification for payment to such State, subdivision, or organization from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(j) All regulations and amendments thereto with respect to grants to States under this section or *section 315* shall be made after consultation with ~~a~~ conference of] the State health authorities and, in the case of regulations or amendments which relate to or in any way affect grants ~~under~~ subsection (c)] for work in the field of mental health, the State mental health authorities. Insofar as practicable, the Surgeon General shall obtain the agreement, prior to the issuance of any such regulations or amendments, of the State health authorities and, in the case of regulations or amendments which relate to or in any way affect grants ~~under~~ subsection (c)] for work in the field of mental health, the State mental health authorities. *Except in case of emergency such regulations shall be issued only after thirty days' notice to and presentation to the annual conference of, such health authorities.*

(k) Funds appropriated under subsection (a) and funds appropriated under subsection (b), in addition to being available for payments to States, shall also be available for expenditure by the Surgeon General in otherwise carrying out the respective subsections, including expenditures for printing and binding of the findings of investigations, and for pay and allowances and traveling expenses of personnel of the Service engaged in activities authorized by the respective subsections.

GRANTS TO STATES FOR STATE PUBLIC HEALTH SERVICES AND LOCAL PUBLIC HEALTH UNITS

SEC. 315. (a) For the purposes of this section—

(1) the term "local public health unit" means the governmental authority of a local area authorized to provide in such area the public health services for which funds are made available under this section (including a unit of a State government specifically assigned responsibility for the provision of public health services in a local area and including the District of Columbia), or a combination of the governmental authorities of two or more contiguous local areas authorized to provide such services in such combined area;

(2) the term "population" (A), as applied to a State, means the population thereof according to the latest estimates available from the Department of Commerce on August 31 of the year preceding the fiscal year (or portion thereof) for which a determination with respect to such population is made under this section, and (B), as applied to less than State-wide areas, means the population of such areas according to the most recent decennial census figures certified by the Department of Commerce that are available on August 31 of the year preceding the fiscal year (or portion thereof) for which a determination with respect to such population is made under this section, increased or decreased in proportion to the increase or decrease since such census of the population of the State as estimated in accordance with clause (A) hereof;

(3) the average per capita income of the United States or the average per capita income of a State, as the case may be, means its average per capita income for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce on August 31 of the year preceding the fiscal year for which the determination is made, except that the average per capita income of Hawaii shall be deemed to be equal to that of the continental United States (excluding Alaska) and the average per capita income of Alaska, Puerto Rico, and the Virgin Islands shall be deemed to be equal to one-half of that of the continental United States (excluding Alaska).

(b) To enable the Surgeon General (1) to assist the States in establishing and maintaining adequate public health services and (2) to assist the States and their subdivisions in establishing and maintaining adequately staffed and equipped local

public health units for the provision of public health services, there are hereby authorized to be appropriated for each fiscal year beginning with the fiscal year ending June 30, 1952, such sums as may be necessary to carry out such purposes, respectively. The sums appropriated pursuant to this section shall be used for making payments to States which have submitted, and had approved by the Surgeon General, State plans for carrying out the purposes of this section.

(c) Within six months after the enactment of this section, the Surgeon General shall by regulation prescribe with respect to local public health units—

(1) the minimum population to be served by each public health unit, with variations for different types of areas, but such units shall not exceed in any State more than one for each thirty-five thousand population, except that in States having less than twelve persons per square mile they shall not exceed one for each twenty thousand population; and the minimum number and types of full-time professional and other personnel which local public health units in various types of areas must employ; including conditions under which and the extent to which compliance with such requirements may be postponed;

(2) subject to the limits set forth in subsection (d) (7), general methods of administration necessary to assure efficient and economical provision of public health services under State plans, including the conditions under which and the extent to which compliance with such methods may be postponed;

(3) the types of services which shall be considered "public health services" for which Federal funds provided under this section may be expended under State plans, which may include services dealing with the diagnosis and prevention of disease, the control of communicable disease, health education, demonstrations, sanitation, vital statistics, the training of personnel for State and local public health work, and other aspects of preventive medicine, but shall not include medical, dental, or nursing care except in the diagnosis or prevention of disease or the control of communicable disease or the promotion, establishment, or maintenance of industrial accident prevention programs.

(d) In order to be approved under this section, a State plan shall—

(1) set forth a program for establishing and maintaining adequate State public health services, including programs in mental health;

(2) set forth a program for establishing and maintaining adequate State public health services, including health units for the provision of public health services: Provided, That nothing herein shall prevent the State from including other aspects of health activities in its plan, if the expense thereof is borne by the State and its subdivisions and not included in the term "expenditures" for the purposes of subsection (e) hereof;

(3) provide for the extension of the program referred to in paragraph (2) of this subsection so as to assure coverage under the program of all areas in the State at the earliest practicable date;

(4) contain satisfactory evidence that the State health authority and the local public health units of the State whose populations are covered by the program referred to in paragraph (2) of this subsection will have authority to carry out the program in conformity with the provisions of this section and regulations prescribed thereunder;

(5) provide, subject to regulations prescribed under subsection (c), that each local public health unit providing public health services under the plan have sufficient financial resources to assure efficient and economical administration of such health services;

(6) provide for the allocation of all funds received by the State health authority for carrying out the program referred to in paragraph (2) of this subsection, to local public health units participating in the State plan, in accordance with methods that will assure equitable distribution and the effective use of such funds in the extension and expansion of public health services, and provide that all such funds shall be used by such units solely for the provision of such services;

(7) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as may be necessary to assure the efficient and economical provision of public health services under the plan;

(8) provide that the State health authority will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and give the Surgeon General upon demand access to the records upon which such information is based.

The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of this subsection and regulations prescribed under subsection (c).

(e) (1) From the sums appropriated pursuant to this section for each fiscal year for carrying out the program referred to in paragraph (1) of subsection (d) of this section, the Surgeon General shall, from time to time and for specified periods, make allotments (including amounts allotted from such sums for any prior period in the same fiscal year and remaining unpaid to the States) to the several States on the basis of (1) population, (2) average per capita income, and (3) special factors relevant to the extent of the health problem in each such State. The amounts to be paid to each State having an approved plan from the allotments to such State, shall be paid upon the condition that there shall be spent by the State for carrying out the approved plan for the purposes of the program referred to in paragraph (1) of subsection (d) of this section, an amount determined in accordance with regulations.

(2) From the sums appropriated pursuant to this section, each State which has a State plan approved in accordance with subsection (d) shall be entitled to receive for each fiscal year, for carrying out the program referred to in paragraph (2) of such subsection, an amount which bears the same ratio to one-third of the total expenditures for such purpose for such year under the plan as the average per capita income of the continental United States (excluding Alaska) bears to the average per capita income of such State, except that (1) in no case may the amount paid to such State for a fiscal year exceed two-thirds of the expenditures for such purpose under the State plan for such year, and (2) there shall not be counted as expenditures under the State plan for such purpose for any fiscal year any sum in excess of \$1.50 (or such higher amount as may be specified in the appropriation pursuant to this section for such year) expended by any local public health unit participating in the State plan, multiplied by the population of the area of such unit. If, during the fiscal year, the areas covered by the State plan are changed, appropriate adjustments, prorated in accordance with the time the change becomes effective, shall be made in determining the maximum amount of the expenditures. If for any fiscal year appropriations pursuant to this section for carrying out the program referred to in paragraph (2) of subsection (d) are less than the Federal proportion under this paragraph with respect to total estimated expenditures (as of the beginning of such fiscal year) for such purpose for such year under State plans the amount to which each State is entitled under this paragraph shall be reduced proportionately.

(3) No expenditures from grants received from the Federal Government under any provision of law (other than pursuant to this section) and no expenditures made by the State or by its subdivisions which have been reported as expenditures for the purposes of any other program aided by Federal grants, shall be counted as expenditures under the plan.

(4) The Surgeon General may, by regulation, prescribe the extent to which the cost of services, facilities, and equipment utilized by a State or its subdivisions in carrying out a State plan approved under this section and utilized in addition in carrying out one or more State programs approved under other provisions of law providing for Federal grants to assist States or their subdivisions in carrying out health programs, shall be deemed to constitute expenditures under this subsection, and such regulations may provide that, if the major utilization of such services, facilities, and supplies is in carrying out a State plan approved under this section or is so divided among other programs as to make an apportionment thereof impracticable, the entire cost thereof shall be deemed to constitute an expenditure for the purpose of this subsection.

(f) The Surgeon General shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period pursuant to subsection (e), and shall then certify to the Secretary of the Treasury the amount so estimated, increased or decreased, as the case may be, by any sum by which he finds that his estimate for any prior period was greater or less than the amount which should have been paid to the State under subsection (e) for such period. The Secretary of the Treasury shall thereupon, prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Surgeon General, the amount so certified.

(g) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority of the State finds—

(1) that the State plan has been changed so that it no longer complies with the requirements of subsection (d); or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by subsection (d) to be included in the plan; or

(3) that the State plan has ceased to comply with regulations under subsection (c): Provided, That no changes in a State plan shall be required within two

years after initial approval thereof, or within two years after any change required therein by reason of any change in the regulations prescribed pursuant to subsection (c), except with the consent of the State or in accordance with further action by the Congress;

the Surgeon General shall notify such State health authority that further payments will not be made to the State from appropriations pursuant to this section (or, in his discretion, that further payments will not be made to the State from such appropriations for activities or areas in which there is such failure) until he finds that the plan again complies with such requirements or until he is satisfied that there will no longer be any such failure. Until he so finds, or is so satisfied, the Surgeon General shall make no further certification for payment to such State from appropriations pursuant to this section, or shall limit payment to activities or areas in which there is no such failure.

(h) (1) If any State is dissatisfied with the Surgeon General's action under subsection (g) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Surgeon General shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Surgeon General, unless substantially contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive unless substantially contrary to the weight of the evidence.

(3) The court shall have jurisdiction to affirm the action of the Surgeon General or set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

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